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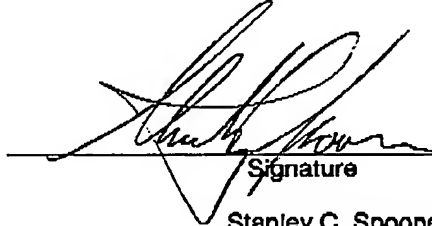
Doc Code: AP.PRE.REQ

JUN 20 2006

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		550-318	
		Application Number	Filed
		10/079,811	February 22, 2002
		First Named Inventor	
		NIGHTINGALE	
		Art Unit	Examiner
		2128	S. Patel
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the <input type="checkbox"/> Applicant/Inventor <input type="checkbox"/> Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> Attorney or agent of record 27,393 (Reg. No.) <input type="checkbox"/> Attorney or agent acting under 37CFR 1.34. Registration number if acting under 37 C.F.R. § 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*</p> <p><input checked="" type="checkbox"/> *Total of 1 form/s are submitted.</p>			
		 Signature Stanley C. Spooner	
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		June 20, 2006	
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**STATEMENT OF ARGUMENTS IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The following listing of clear errors in the Examiner's rejection and his failure to identify essential elements necessary for a *prima facie* basis of rejection are responsive to the Final Rejection mailed March 21, 2006 (Paper No. 079811). While Applicants' arguments will be directed towards the subject matter of method claim 1, the arguments are similarly applicable to Applicants' apparatus claim 15 and computer program product claim 16 and therefore incorporated by reference.

1. The Examiner fails to establish how or where Hollander teaches Applicants' claimed "(i) modelling" operation of a software component using a software simulator

Applicants' independent claims require "modelling operation of said software component using a software simulator." The portion of the Final Rejection entitled "Response to Arguments" completely ignores this claimed requirement of claims 1, 15 and 16. This indicates that the Examiner has no response to this argument.

The restatement of the rejection under 35 USC §103 on page 6 of the final rejection (as in the previous official action) does allege that Hollander is directed to a method of simulating a system and in item a. suggests that it teaches the claimed "modeling." The Examiner refers to column 8, lines 39-44 and column 10, lines 51-58 in Hollander as containing such teaching or suggestion. Neither of the cited portions of the Hollander reference have anything to do with "modelling operation of said software component using a software simulator."

The column 8 discussion relates to "a report generator module 24 [which] provides textual and graphical information on the test results" and the column 10 discussion deals with a "co-verification extension module 174." Since neither of these structures have anything to do with

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Applicants' claimed method step or corresponding structure or logic (in claims 15 and 16), Hollander simply fails to disclose claimed subject matter and therefore there can be no *prima facie* case of obviousness.

In fact, a more pertinent portion of the Hollander reference is believed to be at column 10, lines 24-28, where it is stated that "the user first creates a cycle-accurate model of the hardware apparatus 172 on which the external software program 168 is to be run." However, this clearly indicates that the software component is not modeled and instead a real software program is simply run, albeit on a model of the hardware apparatus.

Because Hollander contains no teaching of "modeling" the operation of a software component, Hollander does not support a rejection of claims 1, 15 and 16 under 35 USC §103 or any claims dependent thereon.

2. The Examiner fails to establish how or where Hollander teaches Applicants' claimed "(iv) generating" step wherein "said modelled interaction between said software component and said hardware component proceeds independently of said test controller"

In section (iv) of claim 1, relating to "generating" (and similar sections in independent claims 15 and 16), it is specified that "wherein said modelled interaction between said software component and said hardware component proceeds independently of said test controller." The Examiner addresses this claim requirement in the first paragraph on page 4 of the Final Rejection "Response to Arguments." He alleges that Hollander discloses the claimed method step and corresponding structures and logic at column 5, lines 21-24 and column 8, lines 24-32.

The column 5 citation merely suggests that the Hollander invention "can perform any combination of static and dynamic checks" and that "the test generator module and the checker can constantly synchronize." While this language may be considered broad enough to cover

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Applicant's claimed subject matter, it does not disclose that subject matter and disclosure, not claim coverage, is the test of obviousness.

The second reference merely identifies that Hollander uses "a checker module 30" and the checker along with the corresponding generate module 26 are elements that "can constantly synchronize." A brief reference to Hollander's Figure 1 will indicate that the test generator module 26 and the checker module 30 are portions of the test controller 22 (unlabeled in Figure 1).

Because the checker and the test generator are part of the test controller, it is impossible for the modelled interaction "between said software component and said hardware component [to proceed] independently of said test controller" as set out in Applicant's claims (emphasis added). In fact, Hollander suggests that the only interaction between software and hardware in the Hollander reference is that which is foreseen to occur at "pre-designated points" in the software (see Hollander at column 10, lines 43-45).

Thus, Hollander cannot discover the unexpected, which is the whole point of the present invention. Applicant's claimed interrelationship which proceeds "independently of said test controller" is a crucial feature of the present invention and allows a more realistic simulation of the interplay between software and hardware to be performed than was previously possible in Hollander and other prior art teachings.

Again, because the subject matter of the independent claim "generating" step and specifically the modelled interaction which proceeds "independently of said test controller" is not disclosed in the Hollander reference, and therefore the combination of this and other steps in the method claims, in the apparatus claims and similar logic in the logic claims cannot be obvious in

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view of the Hollander reference and therefore any further rejection of claims 1, 15 and 16 (and any claims dependent thereon) is respectfully traversed.

3. The Examiner fails to establish how or where Hollander teaches Applicants' claimed "(vi) modelling" the response of the hardware component wherein software stimulus "is passed to said software simulator by issuing a remote procedure call from said test controller to said software simulator"

The Examiner, in apparent admission that the Hollander reference has no disclosure relating to the use of a remote procedure call, cites the Platt reference as teaching Applicants' last "modelling" step in which the software stimulus is "passed to said software simulator by issuing a remote procedure call from said test controller to said software simulator."

While Platt does suggest use of a procedure call, the Examiner ignores the problem that would be faced in applying the Platt solution to the Hollander system. The Examiner does not provide any indication of how one of ordinary skill in the art would be directed to apply remote procedural calls as a communication means in the Hollander reference, in view of the fact that the test controller 166 and the external software 163 (as shown in Figure 5 of Hollander) exist in entirely separate domains with no apparent communication link available in order to implement the "remote procedure call" solution disclosed in Applicants' invention.

The Examiner's summary in the "Response to Arguments" portion of the Final Rejection on page 4, second paragraph, merely confirms that remote procedural calls are feasible in both the present invention and in the Platt reference. However, he ignores the well-known problem of how to incorporate such a procedure call disclosed in the Platt reference in the Hollander reference itself. In view of the above, it would be clear to one of ordinary skill in the art that this could not be done, as there is no obvious communication link between the test controller and the external software in order to be able to incorporate the Platt "remote procedure call" procedure.

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Thus, again there is no last "modelling" step from Applicants' independent claims disclosed in the Hollander/Platt combination and in fact, due to the Hollander problems noted above, Platt could not be incorporated into the Hollander solution.

SUMMARY

As noted above, the Examiner's Final Rejection ignores the lack of the claimed "modelling operation" set out in item (i) in Applicants' independent claims. This failure alone removes any *prima facie* basis for an obviousness rejection. As noted above, the Final Rejection also does not point to any teaching in the Hollander reference wherein modelled interaction between software components and hardware components proceeds "independently of said test controller." In fact, the cited portion of Hollander has nothing to do with this aspect. The lack of this feature as well in Hollander clearly avoids any obviousness rejection under 35 USC §103. Finally, the lack of the final "modelling" aspect of Applicants' invention in which communication from said test controller to said software simulator proceeds by way of a "remote procedure call," while disclosed in the Platt reference, is not necessarily combinable with Hollander because there is no communication link available. There is no indication as to why one of ordinary skill in the art would think to combine these dissimilar references in this fashion, since there is no means for communication disclosed in the Hollander reference.

As a result of the above, there is simply no support for the rejection of Applicants' independent claims or claims dependent thereon under 35 USC §103. Applicants respectfully request that the Pre-Appeal Panel find the application is allowed on the existing claims and that prosecution on the merits should be closed.

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